

A P P E A R A N C E S: (CONT'D)

ALSO PRESENT:

INTERNAL REVENUE SERVICE
BY: CHARLES TONNA
450 GOLDEN GATE AVENUE
6TH FLOOR
SAN FRANCISCO, CALIFORNIA
94102

DEPARTMENT OF THE TREASURY
BY: WILLIAM LEE
KENNETH BONANO
450 GOLDEN GATE AVENUE
7TH FLOOR, SUITE 7-2506
SAN FRANCISCO, CALIFORNIA
94102

INDEX OF PROCEEDINGS

DEFENDANT'S OPENING STATEMENT P. 4

SAN JOSE, CALIFORNIA

DECEMBER 7, 2011

P R O C E E D I N G S

(WHEREUPON, COURT CONVENED AND THE
FOLLOWING PROCEEDINGS WERE HELD:)

THE COURT: DOES THE DEFENSE HAVE AN
OPENING STATEMENT?

MR. FONG: YES, YOUR HONOR. MAY IT
PLEASE THE COURT. CAN YOUR HONOR SEE.

**(WHEREUPON, COUNSEL FOR DEFENDANT LIGHTER
GAVE THEIR OPENING STATEMENT.)**

MR. FONG: YOUR HONOR, COURTROOM STAFF,
MR. O'REILLY, MS. WONG, MS. BURGESS, SPECIAL AGENT
BONANO, AND OTHER MEMBERS OF THE GOVERNMENT'S TEAM,
GOOD MORNING.

LADIES AND GENTLEMEN, GOOD MORNING.

I KNOW WHAT YOU'RE THINKING, WAIT A
MINUTE, WE'RE IN SAN JOSE AND THIS GUY IS USING A
FLIP CHART. IT'S A DECIDEDLY LOW-TECH WAY TO GO,
BUT I THINK IT WILL HELP.

YOU PROBABLY HAVE SEEN ENOUGH T.V. SHOWS
AND READ ENOUGH LEGAL THRILLERS, WHICH I READ ALL
OF THE TIME AND I DON'T KNOW WHY, TO KNOW THAT
THERE'S THE CLICHE THAT THE OPENING STATEMENT IS
SUPPOSED TO BE A ROADMAP TO THE CASE.

10:04:33 1 AND THAT'S USUALLY TRUE. AND THAT'S A
10:04:35 2 GOOD METAPHOR, BUT IN THIS PARTICULAR CASE MY
10:04:43 3 OPENING STATEMENT WILL FOCUS FIRST -- TREAT IT LIKE
10:04:46 4 A MENU.

10:04:47 5 IN PARTICULAR, ONE PARTICULAR ITEM ON
10:04:49 6 THIS MENU, AND THIS WILL HELP YOU FOLLOW THE
10:04:52 7 EVIDENCE, THE ITEM, THE DAILY SPECIAL ON THIS MENU
10:05:04 8 IS BLT. EVERYBODY'S FAVORITE. IN THIS PARTICULAR
10:05:14 9 CASE IT'S NOT A SANDWICH. IT IS BEFORE LIGHTER'S
10:05:28 10 TIME, BEFORE ERIC LIGHTER'S TIME.

10:05:30 11 THE REASON THIS IS SO IMPORTANT ON THE
10:05:33 12 MENU, IS THAT IT WILL HELP YOU FOCUS ON THE
10:05:36 13 TIMELINE INVOLVED.

10:05:37 14 BECAUSE THE GOVERNMENT IS RIGHT ABOUT ONE
10:05:39 15 POINT, AND THAT IS THAT THERE WERE A LOT OF
10:05:42 16 CONSPIRACIES TO DEFRAUD THE I.R.S., A LOT OF THEM,
10:05:47 17 ALL OVER THE PLACE.

10:05:48 18 IT'S JUST THAT ALL OF THOSE CONSPIRACIES
10:05:53 19 HAD TAKEN PLACE BLT. THE N.T.S. PEOPLE -- THE
10:06:00 20 OTHER THING THAT YOU'LL FIND IS THAT THE EVIDENCE
10:06:02 21 WILL SHOW IN THIS CASE THAT THERE ARE A LOT OF
10:06:04 22 DOCTORS INVOLVED. OF THE SIX WITNESSES WHO WERE
10:06:08 23 INVOLVED WITH MR. LIGHTER, I THINK WE HAVE FOUR
10:06:13 24 MEDICAL DOCTORS, TWO PROFESSORS AT BERKELEY.

10:06:19 25 NOW, WE HAVE THE BROCKS, WE HAVE

10:06:27 1 BOURDIER, AND WE HAVE GOOTNICK.

10:06:29 2 NOW, THE FRAUD THAT WENT ON HAD TAKEN
10:06:38 3 PLACE BEFORE ANY OF THESE PEOPLE HAD EVER MET
10:06:42 4 MR. LIGHTER.

10:06:42 5 THE N.T.S. SYSTEM, THE EVIDENCE WILL
10:06:46 6 SHOW, WASN'T JUST SOME KIND OF A TAX PLANNING
10:06:49 7 DEVICE. IT WAS A BLATANT, BLATANT SCAM THAT ANY
10:06:58 8 FIVE YEAR OLD SHOULD HAVE SEEN THROUGH IT.

10:07:00 9 WHAT IT DID WAS IT SET UP -- IT TAUGHT
10:07:03 10 PEOPLE WHO WERE PROFESSIONALS, LIKE DR. BROCK,
10:07:07 11 PROFESSOR BOURDIER, AND PROFESSOR GOOTNICK, IT
10:07:11 12 TAUGHT THEM TO SET UP -- BECAUSE ALL OF THESE
10:07:13 13 PROFESSIONALS, OF COURSE, ARE KIND OF
10:07:15 14 SELF-EMPLOYED -- IT TOLD THEM, LOOK, YOU DON'T HAVE
10:07:18 15 TO RECORD YOUR INCOME. THIS IS N.T.S. TALKING.

10:07:21 16 THIS IS SAM FUNG THROUGH N.T.S. TALKING.

10:07:25 17 YOU DON'T HAVE TO SET UP, YOU DON'T HAVE
10:07:27 18 TO PAY INCOME TAXES BECAUSE HERE'S WHAT WE DO, WE,
10:07:39 19 THE EVIDENCE WILL SHOW THAT WHAT N.T.S. AND SAM
10:07:42 20 FUNG, NOT MR. LIGHTER, THIS ALL HAPPENED WELL
10:07:45 21 BEFORE ANYBODY MET MR. LIGHTER.

10:07:49 22 THEY WILL SAY SET UP YOUR MEDICAL
10:07:53 23 PRACTICE, SET UP A BUSINESS TRUST. SET UP A
10:08:10 24 BUSINESS TRUST. AND IF YOU'RE IN THE MEDICAL
10:08:14 25 PRACTICE, PUT YOUR MEDICAL PRACTICE IN THE BUSINESS

10:08:16 1 TRUST OR IF YOU'RE A PHOTOGRAPHER, PUT YOUR
10:08:18 2 PHOTOGRAPHER BUSINESS IN THE BUSINESS TRUST.

10:08:21 3 THEN SET UP A FAMILY TRUST.

10:08:24 4 AND FINALLY, SET UP A CHARITABLE TRUST.

10:08:37 5 OKAY. NOW, I'M A MEDICAL DOCTOR, I SET
10:08:39 6 UP A BUSINESS TRUST. I RUN MY MEDICAL PRACTICE
10:08:42 7 THROUGH IT AND THEN I GET A NOMINAL SALARY FOR MY
10:08:46 8 EFFORTS AS A PRACTICING PHYSICIAN.

10:08:49 9 I TAKE NORMAL -- UNDER THE N.T.S. SYSTEM,
10:08:56 10 I TAKE NORMAL BUSINESS DEDUCTIONS AND BEING
10:08:59 11 CREATIVE DEPENDING ON WHAT HAPPENS. BUT THAT'S NOT
10:09:02 12 THE PROBLEM.

10:09:03 13 THEN WHATEVER NET INCOME THAT I HAVE FROM
10:09:06 14 A MEDICAL PRACTICE, I TRANSFER OVER, I PAY OVER TO
10:09:09 15 THE FAMILY TRUST. AND THIS IS WHERE THE FRAUD
10:09:12 16 BEGINS.

10:09:13 17 THE FAMILY TRUST WOULD THEN DEDUCT EVERY
10:09:18 18 SINGLE LIVING EXPENSE, EVERY SINGLE LIVING EXPENSE
10:09:22 19 THAT THE TAXPAYER HAD.

10:09:26 20 AND WE'RE NOT TALKING ABOUT AN EXTRA CAR,
10:09:29 21 TRIP TO THE LIBRARY OR WE'RE NOT TALKING ABOUT
10:09:32 22 EXTRA MOVIE TICKETS OR EVEN A COUPLE OF GROCERY
10:09:36 23 BILLS.

10:09:36 24 WE'RE TALKING ABOUT IN THE CASE OF
10:09:39 25 DR. BROCK, DR. GOOTNICK, AND PROFESSOR BOURDIER,

10:09:42 1 WE'RE TALKING ABOUT HUNDREDS OF THOUSANDS OF
10:09:44 2 DOLLARS OF THINGS LIKE, FOR EXAMPLE, DR. GOOTNICK'S
10:09:49 3 FAMILY TOOK AS A FAMILY TRUST DEDUCTION THE FEES
10:09:57 4 FOR BOARDING YOUR HORSES FOR GROOMING THEIR DOG,
10:10:04 5 AND THEIR SON'S DUKE UNIVERSITY TUITION, AND
10:10:12 6 DR. IRWIN GOOTNICK'S MOTHER'S LIVING EXPENSES IN A
10:10:16 7 LUXURY RETIREMENT HOME. ALL OF THESE THINGS THAT
10:10:19 8 YOU AND I AND EVERYBODY ELSE WOULD HAVE TO PAY FOR
10:10:22 9 WITHOUT THE TAX DOLLARS.

10:10:23 10 N.T.S., THROUGH THE N.T.S. SYSTEM, THESE
10:10:30 11 INDIVIDUALS, DR. GOOTNICK, DR. BROCK, AND PROFESSOR
10:10:35 12 BOURDIER TOOK HUNDREDS OF THOUSANDS OF DOLLARS OF
10:10:38 13 DEDUCTIONS. SO THAT IS IN THE FAMILY TRUST. SO
10:10:40 14 THE FAMILY TRUST'S INCOME WOULD ZERO OUT PRETTY
10:10:44 15 EFFECTIVELY.

10:10:45 16 THEN WHATEVER MONEY IS LEFT, THEY WOULD
10:10:49 17 SEND THE MONEY OVER TO THE CHARITABLE TRUST, EXCEPT
10:10:52 18 THIS IS NOT CHARITABLE IN THE SENSE THAT ANY COMMON
10:10:56 19 SENSE PERSON WOULD SEE IT.

10:10:57 20 THIS IS SIMPLY A HOLDING COMPANY FOR, FOR
10:11:08 21 EXAMPLE, IN DR. GOOTNICK'S CASE IT WAS HIS STOCK
10:11:11 22 PORTFOLIO, IT WAS HIS PLAN. THERE WAS NO CHARITY.
10:11:16 23 THAT'S THE N.T.S. SYSTEM.

10:11:18 24 NOW, WHAT DOES THAT HAVE TO DO WITH
10:11:20 25 MR. LIGHTER?

10:11:25 1 NOW, THESE INDIVIDUALS DRS. BROCK,
10:11:30 2 HANEY -- EXCUSE ME. DR. HANEY, DR. GOOTNICK, AND
10:11:40 3 PROFESSOR BOURDIER AND HIS WIFE, THEY FILED YEARS
10:11:43 4 OF INCOME TAX RETURNS USING THIS BOGUS N.T.S.
10:11:49 5 SYSTEM, AND THAT'S ALL BLT. THAT WAS DONE BEFORE
10:11:54 6 THEY EVER MET MR. LIGHTER. MR. LIGHTER HAD
10:11:58 7 ABSOLUTELY NOTHING TO DO WITH THAT.

10:12:01 8 AND, IN FACT, POST-BLT. WHAT HAPPENS
10:12:05 9 WHEN MR. LIGHTER COMES ONTO THE SCENE? THE FIRST
10:12:08 10 THING HE DID WAS HE TOLD EVERYBODY, AND THE
10:12:10 11 EVIDENCE WILL SHOW, THAT N.T.S., WHAT YOU HAVE BEEN
10:12:13 12 DOING IS ILLEGAL AND N.T.S. IS BAD. THAT'S WHAT
10:12:27 13 MR. LIGHTER TOLD EVERYBODY. I DO NOT BELIEVE THE
10:12:30 14 EVIDENCE WILL BE IN DISPUTE OVER THAT POINT.

10:12:33 15 SO, YES, THERE WAS A LOT OF TAX FRAUD
10:12:36 16 GOING ON, BUT IT'S EVERYTHING THAT HAPPENED BEFORE
10:12:38 17 MR. LIGHTER'S TIME AND IT DID NOT INVOLVE
10:12:41 18 MR. LIGHTER.

10:12:42 19 IN FACT, MR. LIGHTER CAME IN AND SAID,
10:12:45 20 HEY, WHAT YOU GUYS DID, IT'S ILLEGAL. AND WHAT YOU
10:12:49 21 HAVE TO DO, WHAT YOU HAVE TO TRY TO DO IS RESOLVE
10:12:53 22 YOUR PROBLEMS WITH THE I.R.S.

10:12:55 23 AND BEFORE MR. LIGHTER CAME INTO THIS,
10:12:58 24 MR. FUNG, THE CODEFENDANT WHO HAS NOW PLED GUILTY
10:13:02 25 WHO IS NOW COOPERATING WITH THE GOVERNMENT,

10:13:04 1 MR. FUNG WAS STARTING TO GET AUDITED FOR HIS
10:13:08 2 PERSONAL TAX RETURNS. HE GOT SCARED. HE WAS
10:13:12 3 LOOKING FOR SOMEBODY TO HIM HELP.

10:13:14 4 HE HEARD ABOUT MR. LIGHTER. AND
10:13:17 5 MR. LIGHTER HAD A REPUTATION AS A REAL ESTATE
10:13:25 6 DEVELOPER AND INVESTOR WHO IS NOT AFRAID OF TAKING
10:13:28 7 ON THE I.R.S. YES, MR. LIGHTER'S METHODS WERE
10:13:31 8 VERY, VERY UNCONVENTIONAL. HOWEVER, MR. LIGHTER
10:13:34 9 MADE CLEAR TO MR. FUNG, WHAT YOU NEED TO DO IS TO
10:13:37 10 DO CERTAIN THINGS. ONE OF WHICH WAS TO SEND THIS
10:13:44 11 OMNIBUS RETURN TO THE I.R.S.

10:13:47 12 AND THIS OMNIBUS RETURN IS NOT A
10:13:50 13 TRADITIONAL TAX RETURN. IT'S MORE REALLY LIKE AN
10:13:53 14 ESSAY, A STATEMENT. BUT WHAT IS CRITICAL ABOUT THE
10:13:58 15 OMNIBUS TAX RETURN, REGARDLESS OF THE CONVENTIONAL
10:14:04 16 FORM, IS THAT THE OMNIBUS RETURN TOLD THE I.R.S.
10:14:08 17 THAT THE ONE SENT IN BY SAM FUNG, WITH
10:14:11 18 MR. LIGHTER'S HELP.

10:14:12 19 MR. FUNG SAID TO THE I.R.S., I'M
10:14:17 20 CONFESSING TO A FELONY OR FELONIES. I REPUDIATE
10:14:20 21 N.T.S. I KNOW WHAT I DID WAS WRONG AND I WANT TO
10:14:23 22 TRY TO MAKE IT RIGHT.

10:14:24 23 AND TO SHOW THAT THERE'S PROOF IN THE
10:14:28 24 PUDDING, IS THAT MR. FUNG ALSO SENT IN WITH
10:14:33 25 MR. LIGHTER'S HELP AMENDED TAX RETURNS.

10:14:37 1 WELL, THESE AMENDED TAX RETURNS, AS
10:14:39 2 OPPOSED TO WHAT I CALL THE MANIFESTO, THE OMNIBUS
10:14:46 3 RETURN, IT'S THE AMENDED TAX RETURNS THAT SAM FUNG
10:14:52 4 FILED WITH MR. LIGHTER'S HELP WERE TRADITIONAL TAX
10:14:55 5 RETURNS WHERE MR. FUNG TOOK REGULAR BUSINESS
10:14:58 6 REDUCTIONS. NOTHING FOR THE HORSES ON HIS
10:15:00 7 PROPERTY, NOTHING FOR HIS SON'S COLLEGE TUITION,
10:15:03 8 NOTHING ABOUT HIS MOTHER'S LUXURY RETIREMENT HOME,
10:15:10 9 NOTHING ABOUT VACATIONS IN HAWAII AT TRUSTEE
10:15:15 10 MEETINGS OR TRUSTEE EXPENSES OR PAYING HIS CHILDREN
10:15:18 11 THE TENS OF THOUSANDS OF DOLLARS AS TRUSTEE
10:15:21 12 EXPENSES.

10:15:29 13 SO BEFORE MR. LIGHTER CAME IN, MR. FUNG,
10:15:33 14 AND HIS CLIENT, MR. BROCK, DR. BROCK, DR. BOURDIER,
10:15:38 15 AND DR. GOOTNICK.

10:15:40 16 I THINK I CAN GET AWAY WITH CALLING
10:15:45 17 DR. BOURDIER PROFESSOR BECAUSE HE HAS A PH.D. SO
10:15:48 18 PROFESSOR BOURDIER AND MR. GOOTNICK WERE CHEATING
10:15:54 19 THE I.R.S. BY FILING THESE BOGUS TAX RETURNS BY
10:15:58 20 HAVING THESE EXPENSIVE, LAVISH TAX REDUCTIONS THAT
10:16:04 21 YOU AND I WOULD NEVER BE ABLE TO GET AWAY WITH.

10:16:06 22 AND ALL OF THAT STOPPED WHEN MR. LIGHTER
10:16:08 23 CAME ONTO THE SCENE AND THE PROOF IS THE FACT THAT
10:16:12 24 MR. LIGHTER STARTED WORKING WITH MR. FUNG AND WHAT
10:16:14 25 HE, MR. FUNG, DID WAS SEND IN THE OMNIBUS RETURN

10:16:18 1 SAYING THAT, LOOK, I'M CONFESSING, I'M CONFESSING
10:16:21 2 THAT I HAVE COMMITTED FELONIES.

10:16:23 3 AND THAT I WANT TO TRY TO MAKE THINGS
10:16:31 4 RIGHT AND MR. FUNG FOLLOWED THROUGH BY FILING TAX
10:16:34 5 RETURNS WHICH WERE YOUR TYPICAL RETURNS WITH
10:16:36 6 REGULAR DEDUCTIONS AND WHATNOT.

10:16:40 7 NOTHING ABOUT THE BLATANTLY ILLEGAL
10:16:43 8 PERSONAL EXPENSE DEDUCTIONS.

10:16:45 9 NOW, THE EVIDENCE WILL SHOW THAT THESE
10:16:51 10 INDIVIDUALS WHO, ACCORDING TO THE GOVERNMENT, HAVE
10:16:57 11 BEEN DUPED BY MR. LIGHTER, THEY WERE EACH A VERY
10:17:04 12 SOPHISTICATED BUSINESS PERSON.

10:17:06 13 IN ADDITION TO THE FACT THAT THEY ARE --
10:17:08 14 THEY WERE VERY, VERY HIGHLY EDUCATED AND IN A
10:17:12 15 MEDICAL PROFESSION, IN ACADEMICS IN THE UNIVERSITY
10:17:17 16 OF BERKELEY, THE UNIVERSITY OF CALIFORNIA BERKELEY.

10:17:19 17 THEY ALSO EACH HAD A LOT OF INVESTMENT
10:17:26 18 EXPERIENCES. THEY HAD QUITE A PORTFOLIO. THEY HAD
10:17:31 19 TO WORK WITH ATTORNEYS AND ACCOUNTANTS AND WHAT
10:17:35 20 HAVE YOU. THEY KNEW WHAT THEY WERE DOING.

10:17:37 21 AND THEY KNEW, LET THERE BE NO MISTAKE,
10:17:40 22 THE EVIDENCE WILL SHOW THAT THESE INDIVIDUALS WERE
10:17:43 23 CONCERNED NOT BECAUSE THEY HAD AN I.R.S. PROBLEM,
10:17:48 24 AGAIN, THE I.R.S. PROBLEM HAD ARISEN BLT. THESE
10:17:53 25 PEOPLE WERE CONCERNED NOT BECAUSE THEY HAD AN

10:17:55 1 I.R.S. PROBLEM.

10:17:56 2 WHAT THEY HAD WAS THE REALITY THAT THEY
10:18:00 3 AND MR. FUNG HAD COMMITTED TAX FRAUD BUT BLT,
10:18:04 4 BEFORE MR. LIGHTER'S TIME, AND THE I.R.S. WAS
10:18:07 5 CLOSING DOWN ON THEM.

10:18:16 6 NOW, THE EVIDENCE WILL ALSO SHOW THAT FOR
10:18:19 7 DR. GOOTNICK AND FOR EACH ONE OF THESE THREE
10:18:23 8 "ALLEGED VICTIMS."

10:18:29 9 WHAT MR. LIGHTER DID WAS TO ENTER INTO
10:18:31 10 BUSINESS TRANSACTIONS WITH THEM. THERE WASN'T
10:18:33 11 THIS, HEY, WHY DON'T YOU GIVE ME EVERYTHING THAT
10:18:36 12 YOU OWN AND THEN WE'LL JUST KIND OF CALL IT A
10:18:41 13 SECRET. NO. THERE WERE CONTRACTS THAT WERE SIGNED
10:18:44 14 IN EACH OF THESE -- FOR EACH OF THESE INDIVIDUALS.

10:18:47 15 SO, FOR EXAMPLE, WITH DR. GOOTNICK, THERE
10:18:55 16 WAS A CONTRACT, A WRITTEN CONTRACT AND YOU'LL SEE
10:18:58 17 IT AS PART OF THE EXHIBIT THAT WILL COME INTO
10:19:00 18 EVIDENCE.

10:19:00 19 THERE'S A CONTRACT BETWEEN MR. LIGHTER
10:19:02 20 AND DR. GOOTNICK, OR ACTUALLY BOTH IRWIN AND SUSAN
10:19:09 21 GOOTNICK, IN WHICH THEY SIMPLY EXCHANGED
10:19:20 22 10 PERCENT, 10 PERCENT STOCK EXCHANGE.

10:19:28 23 IF I MAKE A SPELLING ERROR, BECAUSE I
10:19:31 24 DON'T HAVE SPELL CHECK WITH MY HANDS, JUST BEAR
10:19:34 25 WITH ME.

10:19:35 1 10 PERCENT STOCK CHANGE WITH
10:19:38 2 MR. LIGHTER'S COMPANY, HCHC, AND THE GOOTNICK
10:19:42 3 CHARITABLE TRUST, INC.

10:19:44 4 IT WAS A SIMPLE STRAIGHT AHEAD 10 PERCENT
10:19:48 5 STOCK EXCHANGE. MR. LIGHTER WAS LOOKING FOR
10:19:50 6 INVESTORS AND PARTNERS IN HIS REAL ESTATE
10:19:55 7 DEVELOPMENT JOB.

10:19:55 8 BUT AS PART OF THAT, HE WANTED TO HAVE
10:19:58 9 PARTNERS WHO WERE CLEAR WITH THE I.R.S.

10:20:02 10 HE DID NOT WANT PARTNERS WHO HAD I.R.S.
10:20:05 11 PROBLEMS, ESPECIALLY WITH THE PREVIOUS FRAUD THAT
10:20:07 12 HAD TAKEN PLACE BEFORE HE EVER MET THEM, OKAY?

10:20:17 13 NOW, THIS TOOK PLACE IN APRIL OF 2003.

10:20:20 14 THEN IN OCTOBER OF 2003 -- I'M SORRY.
10:20:23 15 OCTOBER OF 2004. PARDON ME.

10:20:27 16 THEN SIX MONTHS LATER THERE WAS A BILL OF
10:20:31 17 SALE AND A LEGAL DOCUMENT A BILL OF SALE.

10:20:36 18 AND IN THAT BILL OF SALE DR. GOOTNICK
10:20:44 19 SOLD GOOTNICK CHARITABLE TRUST, INC., TO
10:20:49 20 MR. LIGHTER. HE DIDN'T GIVE AWAY THE FARM. HE
10:20:51 21 DIDN'T SAY HAPPY BIRTHDAY, MR. LIGHTER, YOU'RE NOW
10:20:55 22 THE PROUD OWNER OF A MEDICAL BUILDING IN SAN
10:20:59 23 FRANCISCO.

10:20:59 24 THE CONTRACT IS A WRITTEN CONTRACT THAT
10:21:02 25 CALLED FOR A 2.85 MILLION -- IT MIGHT BE 2.8. IT

10:21:14 1 WAS A STRAIGHT BILL OF SALE OF GCTI BILL OF SALE
10:21:20 2 FOR \$2.85 MILLION PROMISSORY NOTE.

10:21:24 3 BUT THERE WAS ALSO AN ADDITIONAL KICKER
10:21:28 4 THAT WOULD EXPLAIN DR. GOOTNICK'S MOTIVATION FOR
10:21:32 5 ENTERING INTO THAT TRANSACTION IN ADDITION TO THE
10:21:35 6 2.85 PROMISSORY NOTE THAT HE WAS GETTING BACK.

10:21:38 7 BY THE WAY, THE EVIDENCE WILL SHOW THAT
10:21:41 8 THIS IS A DOCUMENT THAT THE I.R.S. HAD. THERE WAS
10:21:43 9 NO HIDING OF THE BALL.

10:21:50 10 NOW, THERE'S A CRITICAL PROVISION HERE BY
10:21:53 11 DR. GOOTNICK SELLING THE ASSETS OR HIS OWNERSHIP OF
10:21:59 12 GCTI, GOOTNICK CHARITABLE TRUST, INC., THE BUYER,
10:22:02 13 MR. LIGHTER'S COMPANY WOULD ASSUME ALL TAX
10:22:07 14 LIABILITY OF GCTI.

10:22:10 15 AND THAT'S WHAT -- THAT WAS ONE OF THE
10:22:14 16 MAJOR REASONS WHY DR. GOOTNICK WANTED THAT DEAL
10:22:17 17 BECAUSE HE DID NOT, HE DID NOT WANT TO FACE THE
10:22:20 18 MUSIC IN TERMS OF THE FRAUD THAT HE AND SAM FUNG
10:22:24 19 HAD COMMITTED BY FILING BOGUS, FALSE TAX RETURNS
10:22:28 20 USING THE N.T.S. TRUST SYSTEM.

10:22:31 21 HE DID NOT WANT TO FACE THE CONSEQUENCES
10:22:34 22 OF THAT SO, HEY, CUT A DEAL AND LET MR. LIGHTER
10:22:38 23 TAKE OVER THE TAX LIABILITY.

10:22:40 24 AGAIN, THIS IS ALL IN WRITING. THIS IS
10:22:42 25 NOT A BUNCH OF SECRET CODES OR WHAT HAVE YOU. LET

10:23:15 1 ME CHECK HERE.

10:23:16 2 NOW, WHAT IS INTERESTING IS THAT IN THE
10:23:18 3 BILL OF SALE THE KEY ASSET -- AND CONTRARY TO WHAT
10:23:24 4 I HEARD IN THE GOVERNMENT'S OPENING STATEMENT, I
10:23:26 5 BELIEVE THE EVIDENCE IS SLIGHTLY DIFFERENT FROM
10:23:28 6 WHAT THE GOVERNMENT REPRESENTED.

10:23:29 7 I BELIEVE THAT THE EVIDENCE WILL SHOW
10:23:32 8 THAT THE GOOTNICKS' FAMILY HOME WAS NEVER PART OF
10:23:37 9 THE DEAL.

10:23:38 10 THE KEY PART OF THE BILL OF SALE INVOLVED
10:23:43 11 A MEDICAL BUILDING IN SAN FRANCISCO THAT WAS
10:23:53 12 SUPPOSED TO BE WORTH \$1.5 MILLION, AND IT WAS
10:23:56 13 SUPPOSED TO BE FREE AND CLEAR.

10:23:57 14 AND TAX LIABILITY THEN THERE WERE ALSO
10:23:59 15 ABOUT I WANT TO SAY ABOUT \$500,000 OF LIQUID
10:24:06 16 ASSETS.

10:24:15 17 SO THAT'S WHAT MR. LIGHTER WAS BUYING FOR
10:24:17 18 HIS \$2.8 MILLION PROMISSORY NOTES AND HIS AGREEMENT
10:24:22 19 IN WRITING TO ASSUME THE TAX LIABILITIES FOR THE --
10:24:25 20 FOR, IN FACT, ALL OF THE TRUSTS THAT DR. GOOTNICK
10:24:28 21 HAD SET UP. HE WAS GETTING THE MEDICAL BUILDING
10:24:33 22 SUPPOSEDLY FREE AND CLEAR AND THE STOCK ASSETS.

10:24:41 23 THE WIRE TRANSFER, THERE WAS A LOT OF
10:24:44 24 WIRE TRANSFERS INVOLVED AND DR. GOOTNICK MADE A LOT
10:24:47 25 OF WIRE TRANSFERS, AND I WOULD SAY IF MY MATH IS

10:24:50 1 CORRECT \$450,000 TO \$500,000 WORTH OF CASH WIRED
10:24:56 2 OVER TO MR. LIGHTER. YES, THAT DID HAPPEN. BUT
10:24:59 3 THAT WAS BECAUSE HE HAD A CONTRACT TO DO SO. IT
10:25:02 4 WAS NOT THIS NEFARIOUS PLAN TO HIDE ASSETS OR HOW
10:25:10 5 COULD A MEDICAL DOCTOR WITH SOPHISTICATED
10:25:13 6 INVESTMENT BUSINESS SKILLS HAVE JUST GIVEN AWAY
10:25:17 7 \$500,000 TO SOMEBODY JUST BECAUSE, HEY, HE TOLD ME
10:25:20 8 TO?

10:25:21 9 IT WAS A CONTRACT.

10:25:24 10 NOW, THE EVIDENCE WILL SHOW THAT THERE
10:25:27 11 WAS A LITTLE BIT OF A TWIST.

10:25:29 12 THIS BILL OF SALE HAD OCCURRED, HAD BEEN
10:25:33 13 SIGNED IN OCTOBER AND THIS STOCK EXCHANGE HAD TAKEN
10:25:37 14 PLACE IN APRIL.

10:25:43 15 WELL, UNBEKNOWNST TO MR. LIGHTER, MR. --
10:25:47 16 DR. GOOTNICK HAD PLACED A \$1.3 MILLION RECORDED
10:25:53 17 MORTGAGE ON THE MEDICAL BUILDING IN FAVOR OF A
10:25:57 18 COMPANY THAT WAS NOT PART OF THIS DEAL.

10:26:08 19 SO THAT MR. LIGHTER GOT, INSTEAD OF
10:26:11 20 THINKING THAT HE HAD A \$1.5 MILLION MEDICAL
10:26:13 21 BUILDING FREE AND CLEAR, HE ACTUALLY GOT A MEDICAL
10:26:16 22 BUILDING THAT WAS ALMOST 80 TO 90 PERCENT
10:26:19 23 ENCUMBERED. OKAY. SO, YES THERE ARE FRAUDS IN
10:26:25 24 THIS CASE, BUT MR. LIGHTER IS NOT RESPONSIBLE FOR
10:26:28 25 THEM.

10:26:28 1 AND THE SAME KIND OF SCENARIO HAPPENED
10:26:32 2 WITH DR. BROCK AND PROFESSOR BOURDIER. THERE WAS A
10:26:41 3 STOCK EXCHANGE BETWEEN -- FOR PROFESSOR BOURDIER
10:26:50 4 THERE WAS AN AGREEMENT TO EXCHANGE 10 PERCENT OF
10:26:55 5 HCHC STOCK, WHICH IS MR. LIGHTER'S COMPANY, FOR
10:26:58 6 10 PERCENT OF THE HEART CORPORATION, OR THE HEART
10:27:12 7 MIND CORPORATION, WHICH THIS IS MR. LIGHTER'S AND
10:27:16 8 THIS IS PROFESSOR BOURDIER'S COMPANY. THERE'S A
10:27:20 9 10 PERCENT STOCK EXCHANGE SIMILAR TO THE ONE THAT
10:27:22 10 MR. LIGHTER HAD ENTERED INTO WITH DR. GOOTNICK.

10:27:25 11 AND THAT'S PRETTY MUCH WHAT HAPPENED
10:27:28 12 BETWEEN -- IN TERMS OF THE BUSINESS TRANSACTION
10:27:31 13 BETWEEN PROFESSOR BOURDIER AND MR. LIGHTER.

10:27:34 14 EXCEPT -- AND THIS TOOK PLACE IN
10:27:46 15 OCTOBER 2004, I BELIEVE. EXCEPT A YEAR LATER --
10:27:49 16 I'M SORRY, OCTOBER OF 2003.

10:27:51 17 BUT THE IMPORTANT POINT IS THAT A YEAR
10:27:53 18 LATER, I BELIEVE IT WAS ON DECEMBER 22ND, 2004,
10:28:04 19 PROFESSOR BOURDIER SENT A LETTER TO MR. LIGHTER
10:28:07 20 ANNOUNCING, AND WITHOUT ANY NOTICE, THAT, HEY, AS
10:28:13 21 THE 90 PERCENT HOLDER OF THE HEART MIND CORPORATION
10:28:18 22 I, JEAN-PAUL BOURDIER, I DISSOLVED THE COMPANY A
10:28:23 23 COUPLE MONTHS AGO AND THAT, OF COURSE, 10 PERCENT
10:28:29 24 OF THE STOCK NOW WAS HELD BY MR. LIGHTER'S COMPANY.

10:28:35 25 SO WHEN THE COMPANY WAS DISSOLVED, THERE

10:28:40 1 SHOULD HAVE BEEN SOME ASSETS OR SET UP A
10:28:44 2 LIQUIDATION PROCESS THAT MR. LIGHTER AS 10 PERCENT
10:28:47 3 OWNER OF HEART MIND CORPORATION SHOULD HAVE
10:28:49 4 RECEIVED SOMETHING.

10:28:55 5 BUT PROFESSOR BOURDIER IN HIS LETTER
10:28:58 6 SAID, WELL, THE 10 PERCENT STOCK OF HCHC THAT MY
10:29:05 7 COMPANY HEART MIND CORPORATION IS HOLDING, IT'S
10:29:11 8 EQUAL OF VALUE TO THE 10 PERCENT STOCK THAT YOU,
10:29:13 9 MR. LIGHTER, ARE HOLDING IN HEART MIND CORPORATION.
10:29:18 10 SO EVEN STEVEN. A WASH. THEREFORE, YOU GET
10:29:23 11 NOTHING.

10:29:23 12 BUT THAT'S EVIDENCE THAT A YEAR LATER
10:29:29 13 PROFESSOR BOURDIER FELT THAT HIS COMPANY AND
10:29:34 14 MR. LIGHTER'S COMPANY WERE EQUAL IN VALUE. HE
10:29:39 15 CERTAINLY MADE THAT REPRESENTATION IN WRITING.

10:29:43 16 NOW, PROFESSOR BOURDIER ALSO WAS WORRIED
10:29:46 17 ABOUT THE TAX FRAUD THAT HE HAD COMMITTED ALONG
10:29:51 18 WITH SAM FUNG BEFORE MR. LIGHTER EVER CAME INTO THE
10:29:55 19 SCENE.

10:29:56 20 BECAUSE YOU WILL HEAR WHEN MR. BOURDIER
10:29:59 21 TESTIFIES IN THIS CASE THAT WHEN THE GOVERNMENT
10:30:05 22 ANNOUNCED THAT IT WOULD CALL MR. BOURDIER AS A
10:30:08 23 WITNESS IN THIS CASE, MR. BOURDIER TOLD THE
10:30:13 24 GOVERNMENT I'M NOT TESTIFYING UNLESS I GET
10:30:16 25 IMMUNITY. I WANT IMMUNITY. THE GOVERNMENT GAVE

10:30:18 1 THEM IMMUNITY.

10:30:20 2 SO YOU'LL BE HEARING THAT MR. BOURDIER IS
10:30:22 3 HERE UNDER GOVERNMENT IMMUNITY SO HE CAN TESTIFY AS
10:30:28 4 TO THE FRAUD THAT HE HAD COMMITTED, AND THE
10:30:30 5 EVIDENCE WILL SHOW THAT THE FRAUD THAT HE WAS
10:30:33 6 AFRAID OF, FOR WHICH HE ASKED FOR IMMUNITY, HAD
10:30:36 7 OCCURRED, HAD TAKEN PLACE WITHOUT MR. LIGHTER'S
10:30:41 8 PARTICIPATION. IN FACT, ALL OF THOSE THINGS HAD
10:30:43 9 TAKEN PLACE BEFORE MR. LIGHTER EVER MET PROFESSOR
10:30:47 10 BOURDIER.

10:30:50 11 ONE FINAL POINT ABOUT PROFESSOR BOURDIER
10:30:54 12 WILL COME OUT DURING THE TRIAL AND THAT WILL BE
10:30:57 13 INTERESTING IS THAT THERE ARE SOME DOCUMENTS, A
10:31:00 14 PROMISSORY NOTE AND A MORTGAGE THAT WAS KIND OF
10:31:04 15 SUPPOSED TO BE KIND OF THIS EXCHANGE OF STOCK.
10:31:12 16 EXCEPT THESE DOCUMENTS, THE PROMISSORY NOTE AND THE
10:31:16 17 MORTGAGE, THEY BOTH BORE PROFESSOR BOURDIER'S
10:31:21 18 SIGNATURE AND MR. LIGHTER'S SIGNATURE.

10:31:23 19 EXCEPT THE EVIDENCE WILL SHOW THAT
10:31:25 20 MR. LIGHTER NEVER SIGNED HIS NAME ONTO THOSE TWO
10:31:32 21 DOCUMENTS, AND THERE ARE OTHER DOCUMENTS AS WELL.

10:31:34 22 SO MR. BOURDIER FINALLY AFTER THE
10:31:41 23 GOVERNMENT CONFRONTED HIM WITH THAT, BECAUSE THE
10:31:43 24 DEFENSE HAD ALERTED THE GOVERNMENT THAT MR. LIGHTER
10:31:52 25 HAD NOT, HAD NOT SIGNED THOSE DOCUMENTS, PROFESSOR

10:31:58 1 BOURDIER DRAGGED HIM BY THE SHIRT --

10:32:02 2 MS. WONG: OBJECTION. ARGUMENT.

10:32:04 3 THE COURT: COUNSEL, THIS IS OPENING
10:32:05 4 STATEMENT. IT'S NOT EVIDENCE, LADIES AND
10:32:06 5 GENTLEMEN.

10:32:06 6 COUNSEL, ARE YOU INDICATING WHAT YOU
10:32:08 7 BELIEVE THE EVIDENCE WILL SHOW?

10:32:09 8 MR. FONG: THAT'S WHAT I WAS DOING, YOUR
10:32:12 9 HONOR.

10:32:12 10 I BELIEVE THAT THE EVIDENCE WILL SHOW
10:32:14 11 THAT NOT ONLY DID PROFESSOR BOURDIER FORGE
10:32:20 12 MR. LIGHTER'S SIGNATURE ON TWO IMPORTANT DOCUMENTS,
10:32:26 13 DOCUMENTS THAT THE GOVERNMENT WILL BE USING AS THE
10:32:28 14 BASIS TO PROSECUTE MR. LIGHTER.

10:32:30 15 THE EVIDENCE WILL SHOW NOT ONLY DID
10:32:35 16 PROFESSOR BOURDIER FORGE MR. LIGHTER'S SIGNATURE ON
10:32:37 17 THOSE TWO DOCUMENTS, AND OTHERS, BUT THAT HE WOULD
10:32:40 18 NOT COME CLEAN EVEN AFTER HE HAD BEEN GIVEN
10:32:44 19 IMMUNITY.

10:32:45 20 THAT'S WHAT THE EVIDENCE WILL SHOW, THAT
10:32:47 21 HE WOULD NOT COME CLEAN UNTIL HE WAS CONFRONTED
10:32:50 22 WITH THE FACT THAT THE GOVERNMENT -- THAT
10:32:53 23 MR. LIGHTER KNEW THAT THOSE DOCUMENTS WERE FORGED.
10:32:58 24 OKAY.

10:32:58 25 NOW, THE SAME KIND OF TRANSACTION

10:33:08 1 HAPPENED WITH DR. BROCK. THERE WAS A BILL OF SALE.
10:33:32 2 EXCUSE ME. I WANT TO GET IT STRAIGHT.

10:33:34 3 NOW, DR. BROCK WENT TO SAM FUNG FOR THE
10:33:37 4 SAME REASON THE OTHER TWO FAMILIES WENT TO SAMUEL
10:33:41 5 FUNG BECAUSE DR. BROCK AND DR. HANEY WERE SCARED.

10:33:45 6 AND WHY WERE THEY SCARED OF THE I.R.S.?
10:33:47 7 THE EVIDENCE WILL SHOW THAT THEY DIDN'T JUST HAVE A
10:33:49 8 TAX FRAUD. THEY HAD THE SAME TYPE OF TAX FRAUD
10:33:55 9 THAT WE HAD SEEN BLT, BEFORE LIGHTER'S TIME.

10:33:59 10 IN FACT, THE EVIDENCE WILL SHOW THAT THE
10:34:01 11 BROCKS EVENTUALLY HAD TO SETTLE UP WITH THE I.R.S.
10:34:05 12 AND HAD TO PAY \$300,000 IN BACK TAXES. AGAIN, THE
10:34:11 13 \$300,000 IN BACK TAXES WAS FOR CRIMINAL -- OR FOR
10:34:16 14 FALSE TAX RETURNS THAT THEY HAD FILED BEFORE THEY
10:34:19 15 EVER MET MR. LIGHTER.

10:34:23 16 AND JUST AS AN EXAMPLE OF THE FALSE TAX
10:34:26 17 RETURN FILING THAT THE BROCK FAMILY HAD MADE BEFORE
10:34:33 18 THEY HAD MET MR. LIGHTER WAS THAT IN 1999 IN A FORM
10:34:37 19 1040 TAX RETURN FOR ONE OF THE SORT OF B & B
10:34:42 20 TRUSTS, WHICH I BELIEVE WAS THE FAMILY TRUST FOR
10:34:47 21 DR. BROCK AND DR. HANEY, THERE WAS AN ENTRY FOR A
10:34:52 22 CHARITABLE DEDUCTION FOR THAT YEAR FOR \$603,800.

10:34:58 23 THE EVIDENCE WILL SHOW THAT DR. BROCK AND
10:35:02 24 DR. HANEY DID NOT MAKE A CHARITABLE DEDUCTION --
10:35:07 25 EXCUSE ME -- A CHARITABLE CONTRIBUTION OF \$603,800

10:35:12 1 OR ANYTHING EVEN CLOSE TO IT.

10:35:17 2 THAT WAS PART OF THEIR TAX FRAUD, WHICH
10:35:20 3 HAPPENED BLT, BEFORE MR. LIGHTER'S TIME.

10:35:23 4 MR. LIGHTER DIDN'T EVEN KNOW THEM AT THE TIME.

10:35:38 5 THERE WAS ANOTHER CONTRACT BETWEEN THE
10:35:40 6 BROCK FAMILY AND THE LIGHTER COMPANIES.

10:35:45 7 AGAIN, AND THE BROCK FAMILY SOLD A LOT OF
10:35:47 8 ASSETS TO MR. LIGHTER'S COMPANY, BUT, AGAIN, THE
10:35:54 9 BROCK ASSETS, THEY GOT A \$2.8 MILLION PROMISSORY
10:36:06 10 NOTE.

10:36:08 11 AGAIN, THIS IS NOT A SITUATION -- AGAIN,
10:36:10 12 THIS IS NOT A SITUATION IN WHICH MR. LIGHTER SIMPLY
10:36:12 13 WOULD SAY, WELL, WHY DON'T YOU GIVE ME ALL OF YOUR
10:36:15 14 MONEY AND TOGETHER WE CAN HIDE IT FROM THE I.R.S.

10:36:18 15 THIS IS A CONTRACT, A BUSINESS DEAL
10:36:20 16 BECAUSE ALONG WITH THE \$2.8 MILLION OF
10:36:25 17 CONSIDERATION, THE BROCKS ALSO GOT THE VARIOUS
10:36:35 18 ENTITIES THAT THEY CONTROLLED WHICH HAD FILED THE
10:36:38 19 FALSE TAX RETURN. MR. LIGHTER'S COMPANY WOULD
10:36:46 20 ASSUME THE TAX LIABILITIES.

10:36:47 21 SO AGAIN, A LEGITIMATE CONTRACT IN WHICH
10:36:58 22 CONSIDERATION WAS GIVEN AND THEN INCLUDING FOR THE
10:37:00 23 BROCKS, I'M SURE, THE VERY VALUABLE CONSIDERATION
10:37:03 24 THAT THEIR I.R.S. CIVIL PROBLEM WOULD NOW BE
10:37:07 25 SOMEBODY ELSE'S PROBLEM.

10:37:17 1 NOW, SORRY TO TAKE UP YOUR TIME BUT LET
10:37:19 2 ME FINISH BY SAYING THAT A GOOD PART OF THIS CASE
10:37:22 3 DOES INVOLVE THE THIRD CONSPIRACY THAT MS. WONG HAD
10:37:27 4 SPOKEN ABOUT IN HER OPENING STATEMENT: THE TAPE
10:37:41 5 RECORDING CONVERSATIONS BETWEEN SAM FUNG AND
10:37:45 6 DR. GOOTNICK.

10:37:45 7 AND THE GOVERNMENT WILL PRESENT EVIDENCE
10:37:48 8 THAT THE PHONE RECORDS WILL SHOW THAT IN BETWEEN
10:37:54 9 THE TELEPHONE CALLS BETWEEN SAM FUNG AND
10:37:57 10 DR. GOOTNICK, THERE WERE TELEPHONE CALLS MADE FROM
10:38:00 11 SAM FUNG TO MR. LIGHTER. AND THERE'S NO DISPUTE
10:38:04 12 OVER THAT.

10:38:09 13 BUT THE EVIDENCE WILL SHOW AND THE
10:38:11 14 TRANSCRIPT AND THE AUDIOTAPE WILL SHOW THAT
10:38:13 15 MR. FUNG WAS DOING THIS BECAUSE HE WAS WORRIED
10:38:17 16 ABOUT HIS CRIMINAL EXPOSURE.

10:38:20 17 AT THAT TIME SAM FUNG WAS THE ONLY PERSON
10:38:25 18 INDICTED CRIMINALLY. AND THAT'S THE OTHER PART OF
10:38:27 19 THIS CASE. THE EVIDENCE WILL SHOW THAT NO CRIMINAL
10:38:36 20 CHARGES HAD EVER BEEN BROUGHT AGAINST DR. BROCK,
10:38:41 21 PROFESSOR BOURDIER OR DR. GOOTNICK.

10:38:46 22 BUT SAM FUNG WAS SCARED, AND HE WAS
10:38:50 23 TRYING TO BROKER THINGS BETWEEN -- HE WAS TRYING TO
10:38:54 24 BROKER A SETTLEMENT OF THE CIVIL CASES THAT ARE
10:38:57 25 GOING ON BETWEEN DR. GOOTNICK AND MR. LIGHTER.

10:39:02 1 BUT THERE IS NO EVIDENCE THAT IN THE TAPE
10:39:09 2 RECORDING THAT WILL SHOW THAT MR. LIGHTER APPROVED
10:39:11 3 OF WHAT MR. FUNG WAS SAYING TO DR. GOOTNICK.

10:39:15 4 IN FACT, THE EVIDENCE WILL SHOW THAT
10:39:23 5 DR. GOOTNICK, WHO WAS WORKING WITH THE GOVERNMENT
10:39:26 6 BY THAT TIME TO RECORD THIS TELEPHONE CALL, THE
10:39:29 7 EVIDENCE WILL SHOW THAT DR. GOOTNICK ON MANY
10:39:31 8 OCCASIONS -- BECAUSE THE TELEPHONE CALL, EACH OF
10:39:35 9 THE TELEPHONE CALLS WENT ON FOREVER, OKAY.

10:39:37 10 BUT IN THE COURSE OF THOSE TELEPHONE
10:39:40 11 CALLS, EVER SINCE THE FIRST ONE, DR. GOOTNICK WAS
10:39:45 12 TRYING TO GET SAM FUNG TO ADMIT THAT SAM FUNG WAS
10:39:50 13 PUTTING FORTH ALL OF THESE THINGS AT MR. LIGHTER'S
10:39:54 14 REQUEST FOR DIRECTION OR INSTRUCTION. AND
10:39:58 15 MR. LIGHTER WAS GIVING MARGINAL.

10:40:01 16 BUT THE EVIDENCE IS TO THE CONTRARY. YOU
10:40:06 17 WILL HEAR THE AUDIOTAPE. YOU WILL SEE THE
10:40:09 18 TRANSCRIPT.

10:40:09 19 LET ME JUST HIGHLIGHT TWO PARTICULAR
10:40:12 20 PASSAGES FOR YOU.

10:40:14 21 I DON'T KNOW IF THIS TRACKS TO WHAT YOU
10:40:19 22 CAN SEE ON THE SCREEN, BUT AT LEAST IN TERMS OF THE
10:40:23 23 WRITTEN OR THE TYPED WRITTEN TRANSCRIPT ON PAGE 25,
10:40:26 24 THERE'S A PASSAGE WHERE DR. GOOTNICK SAYS,
10:40:32 25 "GOOTNICK: WELL, YEAH, BUT YOU'RE CALLING ME ON --

10:40:37 1 YOU'RE CALLING ME ON HIS BEHALF."

10:40:38 2 MEANING MR. LIGHTER.

10:40:40 3 "FUNG: NO, NO, NO, I FIND OUT
10:40:44 4 INFORMATION."

10:40:46 5 AGAIN, DURING THE COURSE OF THIS
10:40:48 6 INFORMATION, MR. FUNG ADMITTED TO A LOT OF -- HE
10:40:51 7 MADE ADMISSIONS ALL OVER THE PLACE ABOUT HIS
10:40:54 8 CULPABILITY AND WHAT HE WAS SCARED OF.

10:40:55 9 MR. FUNG DID NOT HOLD ANYTHING BACK, BUT
10:40:58 10 WHEN DR. GOOTNICK TRIED TO TRAP SAM FUNG INTO
10:41:02 11 SAYING THAT, WELL, LIGHTER PUT YOU UP TO THIS.

10:41:05 12 FUNG SAID NO, NO, NO, NO, LIGHTER DID NOT
10:41:10 13 DO THIS.

10:41:16 14 ON PAGE 11:

10:41:18 15 "GOOTNICK: SO, IN OTHER WORDS, SO
10:41:19 16 LIGHTER TOLD YOU TO GET IN TOUCH WITH ME --

10:41:23 17 "FUNG: NO, NO, NO.

10:41:25 18 "GOOTNICK: BECAUSE HE CAN'T --

10:41:27 19 "FUNG: NO.

10:41:27 20 "GOOTNICK: -- BECAUSE HE CAN'T CALL ME.

10:41:29 21 "FUNG: NO. NO.

10:41:29 22 "GOOTNICK: HE CAN'T CALL ME.

10:41:37 23 "FUNG: LIGHTER -- LIGHTER DID NOT ASK ME
10:41:41 24 TO GET IN TOUCH WITH YOU."

10:41:42 25 NOW, REMEMBER, SAM FUNG DID NOT KNOW THAT

10:41:45 1 DR. GOOTNICK WAS RECORDING THAT CALL, AND YOU WILL
10:41:50 2 HEAR AND SEE THAT THROUGHOUT THE COURSE OF THE
10:41:54 3 CONVERSATION SAM FUNG WAS NOT HOLDING ANYTHING
10:41:57 4 BACK. HE WAS ADMITTING TO THINGS THAT --

10:42:02 5 MS. WONG: OBJECTION, ARGUMENT.

10:42:04 6 THE COURT: MR. FUNG, THIS IS OPENING
10:42:06 7 STATEMENT TO BE DISTINGUISHED FROM CLOSING
10:42:08 8 ARGUMENT.

10:42:08 9 SO THIS IS, AGAIN, YOUR OPPORTUNITY TO
10:42:11 10 PRESENT WHAT YOU BELIEVE THE EVIDENCE SHOULD BE AS
10:42:13 11 OPPOSED TO ARGUING THE CASE.

10:42:15 12 SO THIS IS, LADIES AND GENTLEMEN, I THINK
10:42:17 13 YOU TOLD YOU EARLIER, BOTH SIDES OPENING STATEMENTS
10:42:20 14 IS JUST THAT, IT'S A ROADMAP OF WHAT THEY BELIEVE
10:42:22 15 THE EVIDENCE WILL BE. IT'S NOT EVIDENCE AND
10:42:25 16 NEITHER OF THE OPENING STATEMENTS ARE EVIDENCE.

10:42:27 17 THANK YOU, MR. FONG.

10:42:28 18 MR. FONG: SO -- BUT YOU WILL HEAR FOR
10:42:31 19 YOURSELF AND SEE THE TRANSCRIPT IN WHICH MR. FUNG
10:42:37 20 ADMITTED TO A LOT OF THINGS BUT WHEN HE WAS ASKED
10:42:44 21 REPEATEDLY BY DR. GOOTNICK, HEY, DID LIGHTER PUT
10:42:49 22 YOU UP TO THIS? FUNG TRUTHFULLY SAID NO.

10:42:53 23 LADIES AND GENTLEMEN, AT THE END OF THE
10:42:55 24 EVIDENCE IN THIS CASE, I'M CONVINCED THAT YOU WILL
10:43:00 25 RETURN A VERDICT OF NOT GUILTY. AND I THANK YOU

10:43:02 1 FOR YOUR PATIENCE.

2 (WHEREUPON, THE PARTIAL TRANSCRIPT WAS
3 CONCLUDED.)

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CERTIFICATE OF REPORTER

I, THE UNDERSIGNED OFFICIAL COURT
REPORTER OF THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF CALIFORNIA, 280 SOUTH
FIRST STREET, SAN JOSE, CALIFORNIA, DO HEREBY
CERTIFY:

THAT THE FOREGOING TRANSCRIPT,
CERTIFICATE INCLUSIVE, CONSTITUTES A TRUE, FULL AND
CORRECT TRANSCRIPT OF MY SHORTHAND NOTES TAKEN AS
SUCH OFFICIAL COURT REPORTER OF THE PROCEEDINGS
HEREINBEFORE ENTITLED AND REDUCED BY COMPUTER-AIDED
TRANSCRIPTION TO THE BEST OF MY ABILITY.

/s/

IRENE RODRIGUEZ, CSR, CRR
CERTIFICATE NUMBER 8074

DATED: DECEMBER 9, 2011